

Appl. No. 10/675,684
Resp. dated August 20, 2007

Reply to Action of July 26, 2007
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REMARKS

Claim 1-35 are all the claims pending in the application and are subject to a restriction requirement. Reconsideration is respectfully requested in view of the following remarks. The Action alleges the application includes claims directed to the following patentably distinct groups of species:

- I. Software site license system storing intangible items (claims 1-9);
- II. Method for generating a software site license including associating identifiers to licensable components in the virtual warehouse (claims 10-20);
- III. System for software site licensing purchasing license components (claims 21-25);
- IV. Process for a vendor site licensing of a hardware component (claims 26-30) ;
and
- V. An online method for software site licensing (claims 31-35).

ELECTION WITH TRAVERSE

The Examiner requires Applicant to elect a single species and a list all claims readable thereon. In response to the Examiner's requirements, Applicant elects Species I including claims 1-9 with traverse.

A. There is no support in the Action for the Restriction Requirement.

Applicant respectfully submits the Examiner has not established a proper basis for requiring restriction/election of species of Applicant's claims under 35 U.S.C. § 121 and respectfully traverses the requirement for the following reasons.

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and are either independent or distinct. Furthermore, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it

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on the merits, even though it includes claims to independent and distinct inventions.” (MPEP 803, emphasis added).

“For the purposes of the initial [restriction/election] requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02.” (MPEP 803 last par; emphasis added). Examiners must provide reasons and/or examples to support conclusions, to support a restriction requirement. (MPEP 803).

In the present Office Action the Examiner solely states: “The species are independent or distinct because the[y] all relate to distinctive aspects of licensing.” It is respectfully submitted that this broad statement by the Examiner in no way complies with the serious burden on the Examiner to establish a *prima facie* restriction requirement.

Moreover, the Examiner does not provide a single reason or example to support the conclusion that (i) the inventions are independent or distinct; and (ii) that there is a serious burden in examining all the claims of the present application, as expressly required by the Patent and Trademark Office rules and regulations. Accordingly, Applicant respectfully submits the Examiner’s restriction requirement is improper and should be withdrawn.

B. The Restriction Requirement is without merit.

As previously stated, an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and are either independent or distinct.

Applicant submits that the application, as claimed, does not rise to the level of restriction. For example, species I, II and V all relate to software site licensing, namely a system and method for software site licensing such that a license sales site generates a software site license.

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CONCLUSION

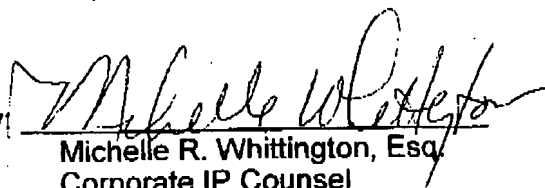
In view of the foregoing, Applicant requests reconsideration of the restriction requirement. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact the undersigned at the Examiner's convenience. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
Inter-Tel (Delaware), Inc.

Date:

August 20, 2007

By:



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